



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

ROBERT K. ELLIS, Plaintiff

c08772-032

*(Enter above the full name of the plaintiff
or plaintiffs in this action).*

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 5:10-0898

(Number to be assigned by Court)

D. BERKEBILE, Warden

DR. HUGHS, Dentist

K. KARL, Dental Assistant

et al, Beckley FCI, Defendants

*(Enter above the full name of the defendant
or defendants in this action)*

COMPLAINT

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes _____

No X _____

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: _____

Defendants: _____

2. Court (if federal court, name the district; if state court, name the county);

3. Docket Number: _____

4. Name of judge to whom case was assigned:

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

II. Place of Present Confinement: Beckley Prison Camp

A. Is there a prisoner grievance procedure in this institution?

Yes X No

B. Did you present the facts relating to your complaint in the ~~state~~ prisoner grievance procedure?

Yes X No

C. If your answer is YES:

1. What steps did you take? 8 1/2 Informal Solution to

the Warden submitted to my Counselor.

2. What was the result? No response as of this date.

D. If your answer is NO, explain why not: _____

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: Robert K. Ellis, 08772-032

Address: P.O. Box 350 Beaver, W.V. 25813

B. Additional Plaintiff(s) and Address(es): _____

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: D. Berkebile

is employed as: Warden

at Beckley Federal Institution

D. Additional defendants: Dr. Hughes, Dentist FCI

K. Karl, Dental Assistant FCI

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

All of my Unit Team is aware of the dental problems I am
having. I have begun the Remedy Procedure by submitting two
8 1/2 Informal Resolutions, one for getting my teeth fixed and
the other requesting the staffing of another dentist. Due to
agonizing pain I am suffering I am filing this suit for relief
before the Remedy Procedure is completed since the procedure
could extend over six months. I will complete the Remedy
Procedure in due time. (continued)

Statement of Claim
(continued)

I have been suffering in pain and anguish for over 3 months with tooth aches, infections, broken teeth with sharp metal hanging down, and cavities. I have turned in sick call slips every week for the last 3 months to no avail. Dental Assistant K. Karl, who is in charge of assigning call outs for sick call was fully aware of the pain I was in. I had my Counselor call and get me in when I had several teeth hurting. She said only one tooth today and that I would not be in there if the Counselor had not called. That there were other inmates hurting too. That was over 5 weeks ago and she has never put me back on the call out, knowing I had other teeth aching and in pain, plus broken teeth, and seeing the weekly sick call slips I placed afterwards (see Ex.-A1-A10).

On 6-30-2010, I e-mailed the Warden asking for help and received no response (see Ex.- B). On 7-01-2010, I placed an 8 1/2 Informal Resolution to the Warden with my Counselor and have received no response (see Ex. - C).

On 7-09-2010, I personally confronted Dr. Hughes the Dentist and told him my tooth was killing me and could he pull it today to which he answered nope, nope, I will get to you when I can Mr. Ellis.

The B.O.P. Program Statement P6400.02, 8., d., (1)

- * Emergency dental care includes treatment for relief of severe dental pain, extraction of non-restorable teeth, etc.
- * Emergency dental care will be available to all inmates on a 24 hour basis.

**Statement of Claim
(continued)**

* Emergency dental care is of the **"highest priority"** and will be provided during dental triage. If emergencies occur during the regular workday, procedures will be in place to respond. (see Ex. - D). Dr. Hughes had to be aware of this Policy when denied me emergency dental care.

There is only one dentist at the Beckley Institution with over 2,000 inmates. Program Statement 6400.02, 6., a., Staffing: The authority to fill positions is held by the Institution's Warden based upon requests justifying the need for staffing. Generally, each institution should have one dentist for every 1,000 inmates (see Ex. - E). In my request to the Warden for an Informal Resolution I quoted this policy statement and noted the fact that the drug offender population was high at this Institution because of the RDAP drug program, and it is well known of the effects drugs have on teeth, so the number of dental claims would be greatly increased here. The Warden had to be aware of this fact and had knowledge of the policy requiring a second dentist at this institution. I have been suffering in great pain needlessly because of the Warden's neglect of staffing to meet the need of a very serious health issue concerning dental needs.

I have been at two other Federal Prisons, Manchester Ky, and Jesup, Ga, and they both had dental sick calls on tuesday and thursday and you were seen that day and treated. The dental sick call here at Beckley Camp is only on Tuesday and there

IV. Statement of Claim (continued):

is a 6 to 8 week wait and then only one tooth is fixed. Then
you wait another 6 to 8 weeks to get another tooth fixed, etc.

UNIT TEAM:

Mrs. Smith, Casemanager

Mr. Grimes, Counselor

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.

I request immediate access to another dentist, besides
Dr. Hughes, for treatment of the infections, tooth aches, broken
teeth, and cavities (outside dental contract source if necessary
). I no longer trust or feel Dr. Hughes competent to do any
dental work without him having some thoughts of retaliation
for the complaints or this suit. Or to be transferred to the
Manchester Ky Camp where I know the dental procedures are good
and would also answer the other complaint I have concerning
a hardship transfer to be near my family. (continued)

V. Relief (continued):

I request the full monetary value allowed by the Courts for the agonizing pain and suffering, and the mental anguish caused by this neglect of procedures or humanitarian concerns. I request the full monetary cost for the replacement of teeth any medical or surgical needs that might have been caused by this neglect, and any future teeth or gum problems that might arise from the negligence of dental care provided by the Beckley Institution.

I request all that the Courts deem allowable for the for the defendants intentional harmful and unhumanitary acts of negligence and knowingly causing more pain by allowing it to escalate over several months. Plaintiff begs this Court for relief as soon as possible.

Plaintiff also ask this Court to warn and hold the defendants responsible for any retaliations against the Plaintiff, however small or petty they may be,,,by them or any of the staff or employees at the Beckley Institution. On July 11, 2010 Mr. Grimes my Counselor called me in his office and made the statement "that for bitching about the staff, I would never see the dentist again while I was here". Defendant asks the Court to put an Injunction against the Beckley employees to fefrain from any harassment or retaliation and order the immediate transfer of the Plaintiff to the Manchester Camp.

V. Relief (continued)):

VII. Counsel

- A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

N/A

- B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes _____ No X

If so, state the name(s) and address(es) of each lawyer contacted:

If not, state your reasons: I do not have the sources or the
finances as of yet. May still be a possibility.

- C. Have you previously had a lawyer representing you in a civil action in this court?

Yes _____ No X

If so, state the lawyer's name and address:

Signed this 12 th day of July, 2010.

Robert K. Ellis

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 12, 2010
(Date)

Robert K. Ellis
Signature of Movant/Plaintiff

N/A
Signature of Attorney
(if any)

BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Ex-A1

TO: (Name and Title of Staff Member) <i>Dentist</i>	DATE: <i>4-13-10</i>
FROM: <i>Robert K. Ellis</i>	REGISTER NO.: <i>08772-032</i>
WORK ASSIGNMENT: <i>EVORD</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

I broke my FRONT TOOTH OFF. There is a steel pin hanging down and it keeps catching my lip. Would you please put me on Dental Sick Call to get this Fixed.

Thank you
Robert K. Ellis

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94



BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

A2

TO: (Name and Title of Staff Member) <i>Dentist Hughes</i>	DATE: <i>4-27-10</i>
FROM: <i>Robert K. Ellis</i>	REGISTER NO.: <i>08772-032</i>
WORK ASSIGNMENT: <i>Ev. ORD</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

My Front Eye tooth is broken off w/ steel pin sticking out AND I HAVE 3 CAVITIES. Would like to save the few teeth I have left. My out-date is 12-20-13

Robert K Ellis

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) <i>Dentist, Hughes</i>	DATE: <i>5-04-10</i>
FROM: <i>Robert KG Ellis</i>	REGISTER NO.: <i>08772-032</i>
WORK ASSIGNMENT: <i>EVORD</i>	UNIT: <i>FV CAMP</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

My Tooth broke off again plus 3 cavities

Out date 12-20-13

Robert KG Ellis

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

A4

TO: (Name and Title of Staff Member) <i>Dentist</i>	DATE: <i>5-18-2010</i>
FROM: <i>Robert Ellis</i>	REGISTER NO.: <i>08772-032</i>
WORK ASSIGNMENT: <i>Ev Old</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

*I have several Bad teeth needing Fixed plus
the Broke Tooth.*

Robert Ellis

(Do not write below this line)

DISPOSITION:

Signature Staff Member

Date

Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

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and BP-S148.070 APR 94



BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

A5

TO: (Name and Title of Staff Member) <i>Dentist</i>	DATE: <i>5-25-2010</i>
FROM: <i>Robert Ellis</i>	REGISTER NO.: <i>08772-032</i>
WORK ASSIGNMENT: <i>Ev. Ord</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

Bad Tooth Ache

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate
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and BP-S148.070 APR 94



BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

A6

TO: (Name and Title of Staff Member) <i>Dentist</i>	DATE: <i>6-01-10</i>
FROM: <i>Robert K. Ellis</i>	REGISTER NO.: <i>08772-032</i>
WORK ASSIGNMENT: <i>Ev. Ord</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

I need two teeth pulled.

(Do not write below this line)

DISPOSITION:

Signature Staff Member

Date

Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94



A 7

BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) <i>Dentist</i>	DATE: <i>6-08-10</i>
FROM: <i>Robert K. Ellis</i>	REGISTER NO.: <i>08772-032</i>
WORK ASSIGNMENT: <i>Ev. Ord.</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

*Teeth Hurt, need two pulled, also two
cavities and a broke tooth.*

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate
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BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

A 8

TO: (Name and Title of Staff Member) <i>Dentist</i>	DATE: <i>6-22-2010</i>
FROM: <i>Robert Ellis</i>	REGISTER NO.: <i>08772-037</i>
WORK ASSIGNMENT: <i>ORD</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

Need Teeth pulled

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

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BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

A9

TO: (Name and Title of Staff Member) <i>Medical</i>	DATE: <i>6-30-2010</i>
FROM: <i>Robert ELLIS</i>	REGISTER NO.: <i>08772-052</i>
WORK ASSIGNMENT: <i>ORD</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

*I need Antibiotics AND A Medical idhe
FOR Aching, PAINFUL, Infected Teeth that
need Attention,*

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94



BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

A 10

TO: (Name and Title of Staff Member) <i>Dentist</i>	DATE: <i>7-06-2010</i>
FROM: <i>Robert Ellis</i>	REGISTER NO.: <i>08772-032</i>
WORK ASSIGNMENT: <i>Ord.</i>	UNIT: <i>EV</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

Need Antibiotics AND Teeth pulled

(Do not write below this line)

DISPOSITION:

Signature Staff Member

Date

Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94



TRULINCS 08772032 - ELLIS, ROBERT KEITH GLEN - Unit: BEC-E-A

Ex-B

FROM: 08772032

TO: Warden

SUBJECT: ***Inmate to Staff Message***

DATE: 6/30/2010 10:40:30 AM

Due to there only being one Dentist at this Institute of over 2000 Inmates, I have been having to suffer pain going on three months now (I have sick call slips dating back 3 months for every week). I was seen 4 week ago with several teeth needing pulled, but they said they could only do one at a time. It would seem like I would be put on the next call-out but it takes another 8 weeks to get seen again. I don't understand. At Jesup and Manchester you were seen the day of the sick call. Would you please help me get my teeth fixed so I will not have to keep enduring this pain.

Respectfully yours

Robert K. Ellis, #08772-032

BP-S148.055 INMATE REQUEST TO STAFF CDFRM
SEP 98

Ex-C

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Warden of Beckley	DATE: 07-01-2010
FROM: Robert K. Ellis	REGISTER NO.: 087720032
WORK ASSIGNMENT: Orderly	UNIT: Evergreen, Camp

I am seeking an informal resolution to the under-staffing of the Dental Department. Program Statement P6400.02 6a (Staffing: The authority to fill positions is held by the institution's Warden based upon request justifying the need for staffing....Generally, each institution should have one Dentist for every 1,000 inmates.) There are over 2,000 inmates at the Beckley institution and only one Dentist. The Camp is suffering the most with only one Dental sick-call a week and which is backed up 6 to 8 weeks. I personally have had to endure pain several weeks before getting treatment. There seems to be no "emergency dental treatment" whatsoever. This institution having mostly drug offenders for the RDAP, and the known effects that drugs have on teeth, make the number of Dental needs extremely high and with 2,000 inmates the staffing of another Dentist should be justified. Every staff member's comment when confronted with a complaint is "we have only one Dentist for 2,000 inmates".

I respectfully request that another Dentist be added to the staff to meet the needs of the Beckley Institution.

DISPOSITION:

Signature Staff Member	Date
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Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86
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Ex. D

d. **Dental Treatment**

(1) **Emergency Dental Care.** Emergency care includes treatment for relief of severe dental pain, traumatic injuries, acute infections, sedative fillings, extraction of non-restorable teeth, and gross debridement of symptomatic areas.

- Emergency dental care will be available to all inmates on a 24-hour basis.
- Inmates with a sentence of one year or less will receive emergency care and may have repair of partials and dentures.

Emergency dental care is of the highest priority and will be provided during dental triage. If emergencies occur during the regular workday, procedures will be in place to respond.

The placement of a definitive restoration should only be considered when a temporary restoration cannot be placed. For example, a fractured anterior tooth may require a permanent resin restoration as opposed to a temporary restoration. The cited example should be a rare occurrence as the placement of permanent restorations requires a treatment plan.

Ex. - E

6. **DENTAL CLINIC ADMINISTRATIVE PROCEDURES.** The CDO will write the local Policy and Procedure Manual on dental health care. The CDO will review the Inmate's Admission and Orientation (A&O) Handbook to ensure that information about the dental clinic is correct. The Policy and Procedure Manual will be negotiated locally.

a. **Staffing.** The CDO will be knowledgeable of both Office of Personnel Management (OPM) and U.S. Public Health Service (PHS) personnel systems. The authority to fill positions is held by the institution's Warden based upon requests justifying the need for staffing.

The BOP Chief Dentist will establish staffing guidelines for dental clinics. Generally, each institution should have one dentist for every 1,000 inmates. Staffing guidelines may vary by institution depending on the mission.

(1) **Auxiliary Personnel.** Auxiliary personnel are essential to an efficient dental services unit.

- Surgical procedures will not be performed without a dental assistant. Institutions should provide one dental assistant for each clinical dentist.
- Each institution should have one dental hygienist.